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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No. 812/91

New Delhi: September 29, 1995.

HON'BLE MR. S.R.ADIGE, MEMBER(A),

HON'BLE DR. A.VEDAVALLI, MEMBER(J)

Constable Soma Kumar,
s/o Shri Sankara Kurup,
vth Bn. No. 4762 DAP., 1273 SD.,
presently working at

P.S. Chittaranjan Park,
New Delhi - 110 019

.....Applicant.

By Advocate Shri P.T. Mathews.

Versus

1. Union of India,
through Secretary to the
Union Territory of Delhi,
Old Secretariate,
Delhi - 7.

2. Commissioner of Police,
Police Head Quarters,
I.P. Estate,
New Delhi - 2.

3. Addl. Commissioner of Police,
(Appellate Authority),
Armed Police,
I.P. Estate,
New Delhi - 2.

4. Deputy Commissioner of Police,
(Disciplinary Authority),
Vth Bn. DAP.,
New Police Lines,
Kingsway Camp,
Delhi - 9.

5. Shri Satyapal, Inspector of Police,
(Enquiry Officer),
vth Bn. DAP.,
New Police Lines,
Kingsway Camp.,
Delhi - 9

.....Respondents.

By Advocate Shri Surat Singh.

JUDGMENT

By Hon'ble Mr. S.R. Adige, Member(A)

In this application, Shri Soma Kumar, Constable
of charges
Delhi Police has impugned the Memo/dated 7.2.89 (Annexure
-II) and the Disciplinary Authority's order dated

17.3.89 forfeiting two years approved service of the applicant permanently with immediate effect entailing reduction in his pay from Rs. 990/- p.m. to Rs. 950/- p.m. for 2 years.

2. A departmental enquiry was initiated against the applicant on the charge that while posted in New L.G. House as Guard at 18 Akbar Road, New Delhi, he appeared in Barrack No. 15 at about 8-45 a.m. on 16.12.88 in an illclad manner just at the time of inspection by the Senior Officers, whereupon the Head Constable Amar Singh told him to keep away for sometime, as it was not proper for a person to appear in such a condition before the Senior Officers. However, instead of following H.C. Amar Singh's instructions, the applicant insisted on entering into the bath-room and abused and misbehaved with the HC Amar Singh. The Enquiry Officer held the charge proved against the applicant and accepting the Enquiry Officer's report, the Disciplinary Authority imposed the impugned punishment, which was upheld vide appellate order dated 8.9.89 (Annexure-VI) as well as in revision vide order dated 14.5.90. However, it is to be noted that the applicant has not challenged the appellate order dated 8.9.89 nor the revisionary order dated 14.5.90.

3. The first ground taken by the applicant is that although the list of P.Ws together with the documents to be relied by them were supplied to him along with summary of allegations, the brief details of the evidence to be led by the P.Ws, which is ^a mandatory requirement under Rule 16(1) Delhi Police (Punishment & Appeal) Rules, 1980 was not supplied, which vitiated the entire

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departmental proceedings. We had given ample opportunity to the respondents' counsel to show as to whether they had supplied the brief details of the evidence to be led by the PWS to the applicant, but they have not been able to do so. As this is a mandatory requirement under Rule 16(1) Delhi Police (Punishment & Appeal) Rules, which embodies the salutary principle of natural justice, that the charged officer must have brief details of the evidence to be led against him, to enable him to prepare his defence, so as to effectively rebut the charge, and this has not been supplied by the respondents, the OA is entitled to succeed on this short ground alone.

4. The applicant has also alleged that the departmental enquiry is vitiated on account that he was not allowed to cross-examine Inspector Rohtash Singh, RI Vth Bn; that there were no independent eye-witnesses to the alleged incident and he is being punished only on the statement of HC Amar Singh; the statements of DWS have wrongly been disregarded; and that the punishment is excessive, but in view of the fact that the OA is entitled to succeed, on the first ground, namely that the mandatory provisions of Rule 16(1) Delhi Police (Punishment & Appeal) Rules have not been followed which is fatal to the proceedings, being a denial of the principles of natural justice, we do not consider it necessary to record findings on the other points agitated by the applicant's counsel and referred to above.

5. In the result, this OA succeeds and is allowed. The impugned order dated 17.3.89 is quashed and set

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aside, and as a result the appellate authority's order and the revisionary authority's order also have to be struck down although they have not been specifically impugned. The forfeiture of 2 years approved service which has entailed reduction of pay from Rs.990/- p.m. to Rs.950/-p.m. for 2 years imposed by the impugned order should be restored to the applicant along with arrears and other consequential benefits within 3 months from the date of receipt of a copy of this judgment. It will however be open to the respondents to proceed departmentally against the applicant afresh, strictly in accordance with law, if so advised, in which case the restoration of forfeited service may await final decision in the departmental proceeding, but in that event the departmental enquiry must be concluded and final orders passed within six months from the date of receipt of a copy of this judgment. No costs.


(DR.A. VEDAVALLI)
MEMBER (J)


(S.R. ADIGE)
MEMBER (A)

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